1 2 3	KEVIN V. RYAN (CSBN 118321) United States Attorney JAY R. WEILL (CSBN 75434) Assistant United States Attorney Chief. Tax Division		
4	10 th floor Federal Building 450 Golden Gate Avenue, Box 36055		
5	San Francisco, California 94102 Telephone: (415) 436-7017 Fax: (415) 436-6748		
7	Attorneys for the United States of America		
8	IN THE UNITED STATES DISTRICT COURT FOR THE		
9	NORTHERN DISTRICT OF CALIFORNIA		
10	SAN FRANCISCO DIVISION		
11	ANTHONY AQUILA,) N= C 04 0442 FMC	
12	Plaintiff and) No. C-04-0443-FMS	
13	Counterclaimant,		
14	V.) ANSWER OF THE UNITED STATES	
15	UNITED STATES OF AMERICA,) AND COUNTERCLAIM)	
16	Defendant and Counterclaimant,		
17			
18	COMES NOW the defendant United States of America by and through its counsel of record,		
19	Kevin V. Ryan, United States Attorney for the Nort	hern District of California, and Jay R. Weill,	
20	Assistant United States Attorney, Chief, Tax Division, and for its answer to plaintiff's complaint,		
21	admits, denies and alleges as follows:		
22	Denies each and every allegation of such complaint not admitted, qualified or otherwise		
23	specifically referred to below:		
24	1. Admits the allegations contained in paragraph 1 of the complaint.		
25	2. Admits the allegations contained in paragraph 2 of the complaint.		
26	3. Admits the allegations contained in paragraph 3 of the complaint, except denies any		
27	taxes (assessable penalties) were erroneously and illegally assessed against and collected from the		
28	plaintiff.		
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1	4.	Admits the allegations contained in paragraph 4 of the complaint.
2	5. Admits the allegations contained in paragraph 5 of the complaint.	
3	6.	With respect to the allegations in paragraph 6, incorporates by reference the above
4	responses to paragraph 1 through 5.	
5	7.	Admits the allegations contained in paragraph 7 of the complaint.
6	S.	Admits the allegations contained in paragraph 8 of the complaint.
7	9.	Admits the allegations contained in paragraph 9 of the complaint, except denies the
8	allegations contained in Exhibit A, unless otherwise admitted herein.	
9	10.	Admits the allegations contained in paragraph 10 of the complaint.
10	11.	Denies the allegations contained in paragraph 11 of the complaint.
11	12.	Denies the allegations contained in paragraph 12 and Exhibit A of the complaint, unless
12	otherwise admitted herein.	
13	13.	Denies the allegations contained in paragraph 13 of the complaint.
14	14.	Denies the allegations contained in paragraph 14 of the complaint for the reason that
15	defendant United States of America presently lacks knowledge or information sufficient to form a	
16	belief as to the truth thereof.	
17	CONTINUING, defendant United States of America alleges as follows:	
18	COUNTED OF A DATA OF A DICTURE	
19	COUNTERCLAIM AGAINST PLAINTIFF <u>ANTHONY AQUILA</u>	
20	15.	Pursuant to Rule 13 of the Federal Rules of Civil Procedure, the United States of
21	America counterclaims against Plaintiff Anthony Aquila for judgment for the balance of the federal tax	
22	assessments made against Plaintiff.	
23	16.	This Counterclaim is brought pursuant to 26 U.S.C. § 7401 at the direction of the
24	Attorney General of the United States, and at the request of the Office of Chief Counsel of the	
25	Internal Revenue Service, a delegate of the Secretary of the Treasury.	
26	17.	The Court has jurisdiction over this Counterclaim pursuant to 26 U.S.C. § 7402 and 28
27	U.S.C. §§ 1340 and 1345.	
28	18.	Venue is proper pursuant to 28 U.S.C. § 1391(b) and 1396.

1	19.	Anthony Aquila resides at 5575 Monte Verde Drive, Santa Rosa, California, within this	
2	judicial district.		
3	20.	On June 24, 2002, a delegate of the Secretary of the Treasury made an assessment in the	
4	amount of \$64,830.56, against Plaintiff Anthony Aquila pursuant to 26 U.S.C. § 6672 as a responsible		
5	officer of Gruppo D' Aquila, Inc. (GDI), who willfully failed to collect, account for or turn over		
6	withholding and F.I.C.A. taxes with respect to GDI's employees for the tax periods ending December		
7	31, 1996, March, 31, 1997 and June 30, 1997.		
8	21.	Despite timely notice and demand for payment of the federal tax assessments described	
9	in paragraphs 20 above. Plaintiff has neglected and/or refused to fully pay the assessed amounts.		
10	21.	Plaintiff is, therefore, indebted to the United States in the amount of \$32,785.51 as of	
11	May 4, 2004, plus accrued interest and penalties, less any payments or offsets.		
12	22.	The United States demands a trial by jury.	
13	WHEREFORE, the United States respectfully prays as follows:		
14	1.	For judgment against Plaintiff Anthony Aquila and in favor of the United States in the	
15	amount of \$32,785.51 as of May 4, 2004, plus accrued interest and penalties, less any payments or		
16	offsets;		
17	2.	For its reasonable costs and attorneys' fees; and,	
18	3.	For such other and further relief as may be just and proper.	
19		Respectfully submitted,	
20		KEVIN V×RYAN United States Attorney	
21	r/4/04		
22		LAY R WEIN	
23		Assistant United States Attorney Chief, Tax Division	
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